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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,829	10/19/2001	Mary Rece Holt	KCX-454 (17074)	6183
7590	11/04/2003		EXAMINER	NERBUN, PETER P
John E. Vick, Jr. Dority & Manning Attorneys at Law, P.A. P.O. Box 1449 Greenville, SC 29602			ART UNIT	PAPER NUMBER
			3765	
				DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	M
	10/032,829	HOLT ET AL.	
	Examiner	Art Unit	
	Peter P Nerbun	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 October 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) 1-37 and 65-94 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 38-41, 45-47, 50-54, 57, 58 and 61-64 is/are rejected.
- 7) Claim(s) 42-44, 48, 49, 55, 56, 59 and 60 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 May 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1,4,6</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim 43 is objected to for being redundant. Note that claim 39, line 9 recites the step of "validating the data". Thus it is redundant for claim 43 (which depends on claim 39) to recite "The method of claim 39 in which the data is validated.". Claim 43 must be cancelled to eliminate this redundancy.

Claim 51 is objected to for containing a grammatical error. In claim 51, line 1, --a-- should be inserted after "is".

Claims 57 and 58 are objected to for referring to a "second" microprocessor. This appears to constitute an error in syntax since no "first" microprocessor is previously recited in any of claims 50, 57, or 58. Therefore the word "second" should be deleted in claims 57 and 58.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 38 is rejected under 35 U.S.C. 102(b) as being anticipated by Gemmel et al (U.S.P. 5,691,919, cited on the PTO-1449 filed October 19, 2001). The patent to Gemmel et al discloses a method for tracking usage parameters of product pulled from a roll, in which the product upon the roll is separated into a plurality of units along its machine direction, whereby a series of pulls comprise a dispensing event, the method comprising: obtaining data related to rotation of a rotating member 28, 30, Fig. 1 in a spindle apparatus (using the magnetic sensing apparatus 34, Fig. 1, 46, Fig. 3, the data representing values proportional to the degree of rotation of the rotating member,

providing a first microprocessor (CPU 18, Fig. 5) capable of receiving and processing said data, and computing by said first a set of parameters or values from said data comprising the number of units per event (see col. 4, lines 1-8 which state that the control unit may be programmed to calculate the amount of toilet tissue taken by a user per discrete pull).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39,41,45-47,50,52-54, and 57,58, and 61-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gemmel et al (U.S.P. 5,691,919). in view of Toussant et al (both cited on the PTO-1449 filed October 19, 2001). The patent to Gemmel et al discloses a method for collecting and transmitting data related to the amount of product pulled from a product roll in a series of dispensing events, comprising: providing a spindle assembly operably connected to a product roll, accumulating data using said spindle assembly, the data comprising at least the amount of product pulled from the roll, providing an electronic linkage from the spindle assembly to a receiver and transmitting a signal comprising in part said data from the spindle assembly to the receiver. To include the date and time corresponding to the dispensing event in Gemmel et al as suggested by Toussant et al (at col. 8, lines 52-55) would have been obvious since the company providing the dispensed product would have

additional data that would allow the company to identify the degree to which various groups of individuals who are present at different times have used their product.

With regard to claims 39 and 54, it would have been deemed obvious that multiple product rolls could be used to provide multiple data sets since Gemmell et al state that "paper use at the dispensing location" is to be "monitored and studied". It is well known to one of ordinary skill that a plurality of rolls of toilet paper are used by users at a particular toilet location and that the use of these plurality of rolls constitutes "paper use". Therefore multiple data sets of data would be generated from such "paper use" and the data would comprise the amount of product pulled from these plurality of rolls in multiple pulling events. Further it is well known to one of ordinary skill that data is "validated" in a CPU (Central processing unit) of a microprocessor since data is processed through a series of logic gates within the CPU to verify that it is properly formatted.

Claim 40 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gemmel et al in view of Toussant et al as applied to claims 50,52,53, and 61-64 above, and further in view of Simakrai et al (all cited on the PTO-1449 filed October 19, 2001). To construct the receiver 14, Figs. 1-7 in the formed method of Gemmel et al with a means that makes an audible sound as suggested by Simakrai et al (at col. 3, lines 54-59 and col. 4, lines 7-16) would have been obvious since a person using the apparatus would be made aware of the product depletion without having to read the visual display.

Claims 42-44,48,49,55,56,59, and 60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-37 and 65-94 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9. It is noted that applicant states that various dependent claims (claims 82-94) have been added that are directed to a nonelected species. Since generic claim 38 has not been allowed these claims have been withdrawn as being directed to a nonelected species.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter P Nerbun whose telephone number is 703-308-0955. The examiner can normally be reached on M-F (1st Week) M-Th (2d Week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

Peter Nerbun
October 29, 2003

Peter Nerbun
Primary Examiner

